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8 UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION
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12 McAfee, INC., a Delaware corporation
13 f/k/a Network Associates, Inc., d/b/a
Network Associates, Inc.,

14 Plaintiff,

15 v.

16 TERRY W. DAVIS, an individual; and
17 DOES 1 through 10, inclusive,

18 Defendants.
19
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Case No. C 07-03529 JW

**ORDER GRANTING PLAINTIFF
McAfee, INC.'S MOTION TO DISMISS
COUNTER CLAIM OF DEFENDANT
TERRY W. DAVIS**

[PROPOSED]

F.R.C.P. 12(B)(6)]

Hearing:

Date: September 24, 2007
Time: 9:00 a.m.
Judge: Honorable James Ware

21 On September 24, 2007, Plaintiff McAfee, Inc.'s ("McAfee") Motion to Dismiss
22 Defendant Terry W. Davis' ("Davis") Counter Claim for Breach of Contract pursuant to Rule
23 12(b)(6) of the Federal Rule of Civil Procedure, came on regularly for hearing in Courtroom 8 of
24 the above-named Court, the Honorable James Ware, presiding. All appearances were stated on
25 the record.

26 The Court, having considered the pleadings and oral arguments by counsel, and for
27 good cause appearing therefor:

28 **IT IS HEREBY ORDERED that:**

1. McAfee's Motion is granted in its entirety; and

2. Davis' Counter Claim for Breach of Contract is hereby dismissed with prejudice on the grounds that it is time-barred under California Code of Civil Procedure Section 337.

Dated: _____

JUDGE OF THE U.S. DISTRICT COURT

PREPARED BY:
STEIN & LUBIN LLP

By: _____
Isabelle Hurtubise
Attorneys for Plaintiff
McAFEE, INC., a Delaware corporation
f/k/a Network Associates, Inc., d/b/a
Network Associates, Inc